

REMARKS

Claims 1-18 are pending in the application. Claims 15-18 are allowed.

Claims 1-14 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over applicant's admitted prior art (AAPA) in view of Gitlin et al. (U.S. 6,018,528) (hereafter Gitlin).

In the Office Action it is again pointed out that AAPA does not disclose subtracting only the interference replicas of the high rate channels from received signals. The Office Action relies on Gitlin for such a feature.

Gitlin discloses a system and method for optimizing usage of a communications transmission medium. The transmission medium may be sliced into time and frequency domains so as to create time-frequency slices for assignment to users having varying access rates and user-application requirements, thereby accommodating higher rate users requiring greater bandwidths and time slot assignments while still preserving cost-efficient access for lower speed users (ABSTRACT).

Gitlin suggests in column 8, lines 36- 40 that users with high bit-rates will tend to transmit at a higher power level and, thus, because of the constant spreading sequence chip rate, higher speed users will contribute more "noise" or "interference" than users with lower bit-rates.

However, in reviewing Gitlin, there is no description of subtracting the interference replicas of only the high rate channels from the received signals. Gitlin only suggests that the users with high bit rates tend to transmit at higher power levels and will contribute more noise or interference than users with low bit rates.

Its asserted in the Office Action that it would be obvious to subtract only the interference replicas of the high rate channels from the received signals because of Gitlin description of the noise and interference of the high bit rate channels but nowhere suggests subtracting the

interference replicas of only the high rate channels from the received signals. In fact Gitlin doesn't even suggest the desirability or feasibility of such a feature.

No such reference has been provided to show such a features as claimed. There is only an assertion that it is in many references without providing any references to judge such an assertion of subtracting only the high rate channels. It is respectfully requested that a reference be provided which shows such a feature.

Even if replicas of all channels (including high rate channels and low rate channels) are subtracted in conventional interference cancellers applicant claims subtracting only the interference replicas of the high-rate channels. No reference has been provided, applicant has not been afforded the opportunity to judge the assertion.

Thus, it would not have been obvious to subtract only the interference replicas of the high rate channels from the received signals in a DS-CDMA communication system including low rate channels in addition to the high rate channels.

In addition applicant claims a unique combination of features, in addition to subtracting only the interference replicas of the high-rate channels. There must be a motivation to make a combination of references. A reference showing such a feature has not been provided thus applicant has not been afforded the opportunity to judge the motivation to make a combination.

The Office Action only recites that it is "well-known" without providing any reference to allow applicant to judge the motivation. It is respectfully submitted that it is well-established that a combination of limitations, some of which separately may be known, may be a new combination of limitations which is nonobvious under the condition of 35 U.S.C. 103.

Therefore even if every element of a claimed invention is in the combined prior art there must be some suggestion or motivation to combine the references. "Although a reference need

not expressly teach that the disclosure contained therein should be combined with another, the showing of combinability, in whatever form must nevertheless be 'clear and particularity.'" In re Dembiscak, 175 F.3d 994, 999 (CAFC 1999).


Therefore it is submitted that it would not have been obvious to subtract only the interference replicas of the high rate channels from the received signals in a DS-CDMA communication system even through the DS-CDMA communication system includes low rate channels in addition to the high rate channels.

For at least the foregoing reasons that Gitlin and AAPA do not in combination suggest applicant's claimed features, the rejections should be withdrawn.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,


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